

REQUIREMENTS RELATING TO THE  
CHARTERING ORGANIZATION

**§ 212.40 Solicitation of charter participants.**

(a) As used in this section, “solicitation of the general public” means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by a foreign air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in paragraph (a)(1)(i) of this section, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in paragraph (a)(1)(i) of this section: *Provided*, That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

(b) Members of the charter group may be solicited only from among the bonafide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of

the general public. “Bona fide members” means those members of a charter organization who (1) have not joined the organization merely to participate in the charter as the result of solicitation of the general public; and (2) are members for a minimum of 6 months prior to the starting flight date. The requirement in paragraph (b)(2) of this section is not applicable to:

(i) Students and employees of a single school, and immediate families thereof; or

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof.

(c) Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the carrier as the charterer.

(d) A charterer shall not advertise or otherwise solicit its members for any charter until a charter contract has been signed: *Provided, however*, That this prohibition shall not extend to oral inquiries or internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out. After a charter contract is signed, copies of solicitation material shall be furnished the carrier at the same time it is distributed to members.

(e) Printed solicitation materials shall contain the following notice in boldface, 10-point or larger type:

SOME OF THE FEDERAL RULES THAT PROTECT AGAINST TOUR CHANGES AND LOSS OF PASSENGERS’ MONEY IN PUBLICLY-SOLD CHARTERS DO NOT APPLY TO THIS PROGRAM.

[ER-686, 36 FR 7449, Apr. 20, 1971, as amended by ER-1178, 45 FR 40575, June 16, 1980]

**§ 212.41 Passengers on charter flights.**

Only bona fide members of the charterer, and their immediate families may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized